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The Importance of Integrating Victimology in White-Collar Crime: A Targeted Comment on Barak's Analysis in *Theft of a Nation*

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My first reading of Theft of a Nation was last year when Gregg Barak was awarded the 2012 outstanding publication from the National White Collar Crime Center (NW3C). The nomination of the book received by NW3C's Research Consortium gave high praises to the work—with good reason. Barak's important contribution reminds of us of the disturbing reality of the ongoing, often ignored, blatant financial crimes occurring at troubling rates nationally and globally. While Barak addresses the complexity of financial wrongdoing and regulation, or lack thereof, in an insightful manner, I chose to focus this commentary on his analysis of victimization. In early research, white-collar crime literature decried the vast and unknown financial, physical, and emotional harm to victims as the greatest travesty, yet with little acknowledgement of victimology. Barak and other prominent scholars, to their credit, are attempting to improve our understanding of victimization by focusing on the target of the harm beyond macro-level social constructs and vague damage estimates (see e.g., Ganzini, McFarland, and Bloom 1990; Lewis 2010; McGurrin and Friedrichs 2010; Szockyj and Fox 1996).

Barak accurately notes the difficulties of separating individualized and organizational victimization, particularly related to the Wall Street financial meltdown. The widespread nature of victimization includes all levels of society without regard to age, race, ethnicity, socioeconomic status, or gender. In other words, white-collar crime creates a status of vulnerability for a wide and diverse group of citizens.

Barak identifies the victims of white-collar crime as the entire spectrum of the population. The characteristics of the victims of financial crime move beyond traditional views of criminal behavior and victimization associated with street-level offenses as committed primarily by and toward the disenfranchised. Barak initially focuses attention on race and poverty, variables seldom recognized in most financial cases, with the exception of environmental pollution and, in some instances, the mortgage crisis.

His application of the "weathering framework" and resulting stress, though thoughtful, creates complexities, such as social level changes, that are seemingly impossible to overcome in terms of improved programs and policies designed to assist and compensate victims of white-collar crime. The weathering framework, according to Barak, was developed to "measure the rates of aging that link social inequality, racism, and biology to socioeconomic and racial/ethnic group victimization" (p. 115). argues financial fraud victims' experiences are similar to institutionalized victims; all of who face racism and gender bias. How to make sense of this approach at a policy level may puzzle the most thoughtful legislator, though as Barak notes, blaming the victim under the guise of capitalism and free markets ignores the social and cultural aspects of fraud.

The noted lack of criminal prosecution in cases of financial crime is reminiscent of the Sutherland and Tappan debate in which a major hurdle to reducing victimization and organizational misbehavior stems from the fact that such practices are more likely to be labeled as civil wrongdoings or regulatory violations, than criminal behavior. Clearly, any attempt at prosecution in cases as widespread as the Wall Street financial crisis may be viewed as folly on the part of federal prosecutors, and large monetary settlements appear to placate a small portion of the victims.

As Barak indicates, the identification of a victim should be a relatively easy task, although this is seldom the case in white-collar crimes because of the socio-legal traditions as well as political, economic, and cultural values that are enmeshed in constructing the role of the victim (p. 117). Additionally, victim rights measures already in place for traditional street crimes, rarely apply to suite crimes. The recourse, as suggested by Barak, is civil lawsuits. The pitfalls in civil cases, despite the lower burden of proof, are numerous. The high cost of legal representation, the investment of time away from work and family, and the ridiculous notion that class-action lawsuits will result in adequate compensation for losses, represent major obstacles. Despite the strong points made by Barak about the value of civil litigation, only a small number of individual victims will seek such recourse or prevail. In contrast, organizational victims present a stronger front financially and legally, though restitution is unlikely to help victims who have lost their homes, retirement funds, and investments.

Settlements with federal agencies offer some sense of restitution to victims of financial crime. In April 2013, news sources reported an agreement among federal agencies and some of the largest banks in the United States designed to compensate the millions of Americans who "allegedly" were targeted in wrongful foreclosures during the housing crisis. I use the term allegedly because these types of settlements typically place no guilt on the offending parties and no admission of criminal conduct. Bank of America, JPMorgan, Chase, Wells Fargo, and Citigroup, for example, agreed to pay \$9.3 billion in cash and in reductions of mortgage balances. A total of \$3.6 billion will go directly to borrowers who lost their homes or faced foreclosure. The 4.2 million victims will receive payments ranging from \$300 to \$125,000 as compensation. The settlement provides researchers with an opportunity to examine the "worthiness" of a diverse group of individual financial victims. Research exploring their perceptions of whether or not justice was achieved, or if restitution represented adequate compensation, may add a substantial framework for understanding victims of financial fraud. The quantitative and qualitative research possibilities are tantalizing to white-collar criminologists, though access to data collection, I suspect, would be a grueling and perhaps impossible task. On a positive note, in 2013, the National Institute of Justice released a solicitation for research and evaluation on white-collar crime that encourages a wide range of research.

Many scholars have noted the lack of a systematic collection of data related to white-collar crimes, including victims; though the National White Collar Crime Center conducts surveys to measure public opinion and address some victimization. The National Crime Victimization Survey (NCVS), however, offers little or no insight into financial victimization. Callie Rennison, a leading expert on the NCVS currently working with the Bureau of Justice

Statistics noted: "The NCVS focuses on crimes against individuals - both property and personal (including violent) crimes and does not measure crimes against businesses" (Rennison, personal communication 2013). Nor does it measure crime victimization by businesses against individuals or against other businesses and organizations. Rennison also explained the difficulties of specific identification of crimes such as embezzlement and cybercrime:

The NCVS is not a good source for information on white-collar crimes. We do not gather information on embezzlement per se, though this act may be captured under the heading of robbery and difficult to parse out. Also, while we do gather information on some forms of cybercrime, it is for crimes against individuals only (theft of credit card numbers and hacking, for example) (Rennison, personal communication 2013).

Additionally, the National Incident Based Reporting System (NIBRS) failed to live up to the promise of offering a more complete database on white-collar offenses.

While some efforts are made to identify and aid victims of fraud, in many cases victims are unwilling to report such offenses because of feelings of shame, embarrassment, and self-blame (Button, Tapley and Lewis 2013; Shover, Coffey and Hobbs 2003). Kempa (2010), for example, identified one million adult victims in Canada who lost money to investments frauds. The victims reported high levels of stress, anger, depression, and isolation to the Canadian Securities Administrators. My own explorations of women and white-collar crime suggest a disparity of victimization between men and women with the latter disproportionately harmed by unsafe drugs and medical devices (Dodge 2009). Women also are widely recognized as victims of a vast array of corporate transgressions (Simpson and Elis 1996). Any definitive claims, however, about victims of white-collar crime are nearly impossible to make given the lack of data (Geis 1975; Gerber and Weeks 1992).

Victimization in white-collar crime conjures up public perceptions not unlike the archaic notions of rape--they knew the risk and got what they deserved. In fact, victims experience many of the same emotional strains including feelings of violation, stress, and anger (Button, Lewis, and Tapley 2012). Victim typologies offer little assistance in the field of white-collar crime. As David Friedrichs commented: "All of us are victimized, in many capacities, by white collar crime," (2010, p. 53). The development of typologies, which currently are nonexistent for victims of white-collar crimes, is ignored for many reasons. First, most efforts to research victims often focus on consumers, particularly vulnerable populations. Second, the difficulties of establishing an operational definition for white-collar crime inhibits attempts to identify victims, especially given

we are all victims. Third, victimization often is diffuse, unintentional, and indirect (Friedrichs 2010). Clearly, fraud victims and more widespread corporate victimization are ignored in the literature (Kane and Wall 2006; Levi 2008; Shichor, Sechrest, and Docey 2001; Shover, Coffey, and Hobbs 2003). Barak's list of groups that have suffered harm without establishing victim status is overwhelming (p. 124) and case examples of victims of the Wall Street securities fraud who pursued legal remedies face, in many cases, insurmountable hurdles. The obstacles may strain emotional and financial resources given the difficulties involved in litigation.

Indeed, these are the "neglected victims" in the research and the criminal justice system (Moore and Mills 1990), though some measures are being put in place to offer assistance. In the United Kingdom, for example, the "fraud justice network" initiated by the National Fraud Authority appears to offer some respite for fraud victims (Button, Tapley, and Lewis 2013). Despite some inroads into assisting individual victims of fraud, investigation and compensation are unlikely to represent sufficient effort to address the needs of fraud victims. In this respect, Barak delivers both good and bad news in his 2012 essay in The Criminologist. On the positive side, he details the success of the Corporate Fraud Task Force touting the convictions of 1,236 corporate fraud cases. On the negative side, the overblown rhetoric of Attorney General Gonzales neglected to summarize the acquittals, hung juries, and court reversals (p. 3). Operation Stolen Dreams, for example, initiated by the U.S. Attorney and several law enforcement agencies targeted mortgage fraudsters. This effort included 1,517 criminal defendants and 191 civil actions. The estimated losses were over \$3 billion and \$196 million was recovered. Unfortunately, the amount recovered in this case is absurdly small and details about the final financial disbursements amounts are elusive including what portion bailed out banks and the amounts paid to victims.

Overall, Barak's *Theft of a Nation* offers a comprehensive perspective on victimology and white-collar crime, which is portrayed throughout the book. Whether or not it was his intent, he successfully reminds us of the harm and distrust that has become deeply rooted in our social reality. The devastation and direct harm caused by the Wall Street looting and lack of regulatory efforts exemplifies victimization, and as Friedrichs (2010) articulately argues we are all victims without the status.

References

Barak, Gregg. 2012. *Theft of a Nation: Wall Street Looting and Federal Regulatory Colluding*. Lanham, MD: Rowman & Littlefield Publishing Group.

- Barak, Gregg. July/August 2012. "On the Rhetoric and Reality of Fighting Financial Fraud on Wall Street." *The Criminologist* 37(4):1-7.
- Button, Mark, Chris Lewis, and Jacki Tapley. 2012. "Not a Victimless Crime: The Impact of Fraud on Individual Victims and their Families." *Security Journal*. doi: 10.1057/sj.2012.11
- Button, Mark, Jacki Tapley, and Chris Lewis. 2013. "The 'Fraud Justice Network' and the Infra-structure of Support for Individual Fraud Victims in England and Wales." *Criminology and Criminal Justice* 13(1):37-61
- Dodge, Mary. 2009. Women and White-Collar Crime. Upper Saddle River, NJ: Prentice Hall.
- Friedrichs, David O. 2010. *Trusted Criminals: White Collar Crime in Contemporary Society* (4th edition). Belmont, CA: Wadsworth.
- Ganzini, Linda, Bentson McFarland, and Joseph Bloom, J. 1990. "Victims of Fraud: Comparing Victims of White Collar and Violent Crime." *Journal of the American Academy of Psychiatry and the Law* 18(1): 55-63.
- Geis, Gilbert. 1975. "Victimization Patterns in White-Collar Crime." Pp. 89-105 in *Victimology: A New Focus*, edited by I. Drapkin and E. Viano. Lexington, MA: Lexington Books.
- Gerber, Jurg and Susan L. Weeks. 1992. "Women as Victims of Corporate Crime: A Call for Research on a Neglected Topic." *Deviant Behavior* 13: 325-347.
- Kane, John and April Wall. 2006. The 2005 National Public Survey on White Collar Crime. Fairmont, WV: NW3C.
- Kempa, Michael. 2010. "Combating White-Collar Crime in Canada: Serving Victim Needs and Market Integrity." *Journal of Financial Crime* 17(2):251-264.
- Levi, Michael. 2008. "Organized Frauds and Organizing Frauds: Unpacking the Research on Networks and Organization." *Criminology and Criminal Justice* 8(4): 389-419.
- Lewis, Lionel S. 2010. "Madoff's Victims Go on the Offensive." *Society* 47(8): 534-542.
- McGurrin, Danielle and David O. Friedrichs 2010. "Victims of Economic Crime—On a Grand Scale." *International Journal of Victimology* 8(2):147-157.

- Moore, Elizabeth and Michael Mills. 1990. "The Neglected Victims and Unexamined Costs of White-Collar Crime." *Crime and Delinquency* 36(3):408-418.
- Shichor, David, Dale Sechrest, and Jeffrey Doocy 2001. "Victims of Investment Fraud. Pp. 81-96 in Contemporary Issues in Crime and Criminal Justice: Essays in Honor of Gilbert Geis, edited by H. N. Pontell and D. Shichor. Upper Saddle River, NJ: Prentice Hall.
- Shover, Neal, Glenn S. Coffey, and Dick Hobbs. 2003. "Crime on the Line: Telemarketing and the Changing

- Nature of Professional Crime." *British Journal of Criminology* 43(3):489-505.
- Simpson, Sally S. and Lori Elis. 1996. "Theoretical Perspectives on the Corporate Victimization of Women." Pp. 33-58 in *Corporate Victimization of Women*, edited by E. Szockyj and J. G. Fox. Boston, MA: Northeastern University Press.
- Szockyj, Elizabeth and James G. Fox. 1996. *Corporate Victimization of Women*. Boston, MA: Northeastern University Press.

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